IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 23RD JANUARY 2007 / 3RD MAGHA 1928

Crl.MC.No. 2548 of 2006()

[CRIME NO.192/2006 OF MARANALLOOR POLICE STATION]

PETITIONERS/ACCUSED:

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1. BINDHU S.NAIR @ BINDHU A.K.NAIR,
   AGED 32 YEARS, D/O.SYAMALA DEVI,
   PUZHPAMOL NIVAS, NEERAMANKUZHI, MARANALLOOR,
   MALAYINKEEZHU VILLAGE, NEYYATTINKARA TALUK,
   THIRUVANANTHAPURAM.

2. K.ANILKUMAR, S/O.KRISHNA PILLAI,
   PUZHPAMOL NIVAS, NEERAMANKUZHI,
   MARANALLOOR, MALAYINKEHU VILLAGE,
   NEYYATTINKARA TALUK, THIRUVANANTHAPURAM.

3. GOPALA PILLAI, AGED 70 YEARS,
   S/O.NARAYANI AMMA, PUZHPAMOL NIVAS,
   NEERAMANKUZHI, MARANALLOOR, MALAYINKEEZHU VILLAGE,
   NEYYATTINKARA TALUK, THIRUVANANTHAPURAM.

4. APARNA NAIR B.A., AGED 2 YEARS,
   D/O.BINDU S.NAIR, PUZHPAMOL NIVAS,
   NEERAMANKUZHI, MARANALLOOR, MALAYINKEEZHU VILLAGE,
   NEYYATTINKARA TALUK, THIRUVANANTHAPURAM.
   REPRESENTED BY HER MOTHER AND GUARDIAN THE
   1ST PETITIONER.

BY ADV. SRI.C.K.MOHANAN
SRI.STEPHEN F.ROZARIO
PUBLIC PROSECUTOR SRI.GIKKU JACOB

RESPONDENTS/COMPLAINANTS:

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1. S.H.O., MARANALLOOR POLICE STATION,
   THIRUVANANTHAPURAM.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
   HIGH COURT OF KERALA,
   ERNAKULAM.

3. PRESANNA KUMARI,
   D/O.DEVAKI THANKACHI,AGED 54 YEARS,
   T.C.23/961, PREM KEERTHANA, THAICADU VILLAGE,
   THIRUVANANTHAPURAM.

BY ADV. SRI.K.P.DANDAPANI
PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 23/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2548 of 2006

Dated this the 23rd day of January 2007

O R D E R

The petitioners have come to this court with this petition under Section 482 Cr.P.C to quash Annexure N F.I.R, that is crime No.192/2006 of Maranalloor police station. In that F.I.R, crime is registered alleging offences punishable under Sections 447 and 420 read with 34 I.P.C.

2. The item of property admittedly belonged originally to the third respondent herein. It is the case of the petitioners that the third respondent, by Annexure B had transferred her rights in favour of one Syamala Devi, the predecessor, in interest of the petitioners. The third respondent has a case that no such document was executed by her and Annexure B document allegedly executed by her is an absolute forgery. It is the further contention of the third respondent in Annexure N F.I.R that claiming rights under Annexure B, the petitioners had trespassed into the property. It is on this allegation, the crime has been registered. Investigation is in progress.

3. The first contention raised is that the allegations are false Annexure B is a genuine document, it is urged. The truth or falsity of Annexure B or the acceptability of that contention cannot obviously be considered and resolved in this proceedings under Section 482 Cr.P.C with the meager data placed before the court. Quashing of the complaint on that ground cannot also be resorted to. The only other contention is that the fourth petitioner, a child aged two years, has been shown as accused in the F.I.R. This assertion is correct. The fourth petitioner aged about 2 years is arrayed as the fourth accused. The learned Public Prosecutor submits that the fourth petitioner happened to be arrayed as the fourth accused only because there was an allegation that the other petitioners had trespassed into the property along with the child of the first petitioner that is the fourth petitioner. The age of the child was not mentioned in the F.I.S. It is hence that the F.I.R was registered against the four accused persons including the fourth accused. Preliminary investigation has revealed that the fourth accused is a child aged two years and steps have already been taken to delete the fourth accused/petitioner from the array of the accused. The child has already been deleted from the array of the accused, it is submitted. In these circumstances, the mere fact that the fourth petitioner arrayed as accused in the F.I.R is a child aged two

years cannot also deliver any advantage to the petitioners nor can it justify the prayer to quash the proceedings.

4. The learned counsel for the petitioners submits that Annexure-N F.I.R is, in fact, a counter blast against crime No.191/06 registered by the police on the complaint of the first petitioner. The learned Public Prosecutor submits that allegations and counter allegations are raised by the rival contestants in the two F.I.Rs and the investigation is in progress. At the moment, it is felt that the dispute is essentially a civil dispute. Final report has not been filed so far. The learned counsel for the third respondent submits that the civil dispute between the parties is already pending before the competent civil court.

5. I need only mention that the investigators must investigate into both crimes and come to a correct and just conclusion and file final reports. At any rate, with the materials available at present, I am not persuaded to agree that the Annexure-N F.I.R deserves to be quashed.

6. This Criminal Miscellaneous Case is in these circumstances, dismissed but with the above observations.

(R.BASANT, JUDGE)

jsr

R.BASANT, J

C.R.R.P.No.

ORDER

21ST DAY OF JULY 2006